THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.NO.19331 OF 2005

ORDER:

Proceeding No.C/C/17/Dev/Telephone/PCO/2005, dated 5.8.2005 of the fourth respondent, has been challenged in this writ petition.

Petitioner is a licensee to run STD/ISD/PCO/ booth in railway station. Initially the period of license was for one year and subsequently it was extended. The license is subsisting up to a period of 27.4.2007. The respondent authorities, having noticed some violations of the conditions of the license, terminated the license under proceeding impugned in the writ petition. Counter affidavit has been filed by the respondents. Details of the counter affidavit are not required to be referred in view of the order proposed to be passed.

Heard learned counsel for the petitioner and Sri B.H.R.Choudary, learned standing counsel for the respondents.

It is not in dispute that the petitioner is a licensee to run the STD/ISD/PCO booth in railway station. The extended period of license is up to 27.4.2007. Under 2002 policy, the license can be terminated after issuing due notice. I deem it appropriate to refer relevant clause of 2002 policy with regard to fresh allotment of STD/ISD/PCO/FAX at railway stations and it reads as under:

> " The administration, i.e., Divisional Railway Manager or General Manager, will have the right to impose fine/terminate the license if the license is not confirming to the conditions laid down by the railways and if there are complaints against him/her for overcharging, etc. The contract will be terminated after issuing due notice. The termination of the license may be done on the basis of the defaults committed by the licencee and at least 3 chances may be afforded by imposing fine. The compounding of defaults may be empowered to Divisional Railway Manager with the powers of imposing fine not less than Rs.500 after due observance of the principles of natural justice."

It is explicit from the above referred clause of the policy that notice is required

to be issued before terminating the contract. There seems to be no notice before termination of the licence. In that view of the matter, the impugned proceedings in this writ petition is to be treated as show cause notice.

In the result, the writ petition is disposed of directing the petitioner to treat the notice dated 5.8.2005 as show cause notice and submit his explanation within ten days and thereafter the respondent authorities have to pass appropriate orders. No order as to costs.

_____

18.11.2005

mdaa.